

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

LEONILA VICTORIO,)	
)	
Claimant,)	IC 05-010298
)	
v.)	
)	ORDER
TYSON FRESH MEATS, INC.,)	
)	
Self-Insured)	
Employer,)	August 29, 2006
)	
Defendant.)	
_____)	

Pursuant to Idaho Code § 72-717, Referee Lora Rainey Breen submitted the record in the above-entitled matter, together with her proposed findings of fact and conclusions of law to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own, with the exception of the finding regarding attorney fees pursuant to Idaho Code § 72-804. The Commission sets forth below its discussion and conclusion on the issue of Claimant's entitlement to attorney fees pursuant to Idaho Code §72-804.

The Commission agrees that the initial information arising out of this claim was undoubtedly confusing. However, the Commission further finds that the confusion was not so resolved by the September 15, 2005 interview as to make Defendant's denial unreasonable. While the September 15, 2005 interview between Employer's insurance adjuster and Claimant was helpful in explaining more details of the accident, it did not serve to discount all the previous confusing and conflicting information that Claimant or her representatives had provided

regarding this incident. The Commission finds that Defendant did not act unreasonably in denying Claimant's claim. Therefore, Claimant is not entitled to attorney fees pursuant to Idaho Code § 72-804.

Based upon the foregoing reasons, IT IS HEREBY ORDERED That:

1. Claimant sustained an injury caused by an accident arising out of and in the course of employment on August 1, 2005.
2. The condition for which Claimant seeks benefits was caused by the industrial accident.
3. Claimant is entitled to related medical benefits and temporary disability benefits as of August 1, 2005.
4. Claimant is not entitled to attorney fees pursuant to Idaho Code § 72-804.
5. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all issues adjudicated.

DATED this __29__ day of __August_____, 2006.

INDUSTRIAL COMMISSION

/s/ Thomas E. Limbaugh, Chairman

/s/ James F. Kile, Commissioner

/s/ R. D. Maynard, Commissioner

ATTEST:

/s/ Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the __29__ day of _August_____, 2006, a true and correct copy of the foregoing **Order** was served by regular United States Mail upon each of the following persons:

BRUCE D SKAUG
1226 E KARCHER RD
NAMPA ID 83687-3075

GLENNA M CHRISTENSEN
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st

_____/s/_____